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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In The Matter Of:

Ford Motor Company

Respondent.

)
) Docket Nos.
) RCRA-02-2003-7104
) RCRA-03-2003-0062
) RCRA-04 -2003-4001(b)
) RCRA-5-99-010
) RCRA-05-2003-0003
) RCRA-07-2003-0050
)
) Administrative Law Judge
) Carl C. Charneski

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

CONSENT AGREEMENT

The United States Environmental Protection Agency (EPA), by and through the Complainants (listed in paragraph 2), and Respondent, Ford Motor Company, agree that settlement of the matters addressed herein without further delay is in their interest and the public interest, and, having consented to the entry of this Consent Agreement before taking testimony and without further adjudication of any issues of law or fact herein, Respondent agrees to comply with the terms of this Consent Agreement.

I. Preliminary Statement

1. This is a civil administrative action instituted under Section 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resources Conservation Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984 ("HSWA") (collectively "RCRA"), 42 U.S.C. § 6928(a) and (g).

2. Complainants in this matter are:

- (a) Richard L. Caspe, P.E., Director of the Division of Enforcement and Compliance Assistance, Region 2;
- (b) James N. Webb, Associate Director for Enforcement, Waste and Chemical Management Division, Region 3;

- (c) Jewell Grubbs, Chief of the RCRA Enforcement and Compliance Branch, Waste Management Division, Region 4;
- (d) Joseph M. Boyle, Chief of the Enforcement and Compliance Assurance Branch, Waste, Pesticides and Toxics Division, Region 5; and
- (e) William A. Spratlin, Director of the Air, RCRA, and Toxics Division, Region 7.

3. Complainants are, by lawful delegation, authorized to institute and settle civil administrative actions brought pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

4. Jurisdiction for this action is conferred upon EPA by Sections 3006(b) and 3008 of RCRA, 42 U.S.C. §§ 6926(b) and 6928.

5. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of EPA (Administrator) may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. The States specified in Attachment A have been authorized to administer a state hazardous waste program in accordance with the notices provided in the Federal Register.

6. Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, the Administrator may issue an order assessing a civil penalty for any past or current violation and/or require compliance immediately or within a specified time period.

7. Pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, representatives of the Administrator may inspect at reasonable times any establishment or other place where hazardous wastes are or have been generated, stored, treated, disposed of, or transported from any establishment or other place.

8. Any violation of regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939(e), or of any state provision authorized pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, constitutes a violation of RCRA subject to the assessment of civil penalties and issuance of compliance orders as provided by Section 3008 of RCRA, 42 U.S.C. § 6928.

9. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by HSWA are immediately effective in a state upon their federal effective date regardless of such state's authorization status. EPA has jurisdiction to implement and enforce those portions of the HSWA requirements for which any such state has not received final authorization, including the regulations at 40 C.F.R. Part 265, Subpart BB and certain provisions of 40 C.F.R. Part 265, Subpart J.

10. Pursuant to Sections 2002 and 3002 of RCRA, 42 U.S.C. §§ 6912 and 6922, EPA promulgated rules pertaining to generators of hazardous waste as set forth at 40 C.F.R. Part 262.

11. Pursuant to Sections 2002 and 3004 of RCRA, 42 U.S.C. §§ 6912 and 6924, EPA promulgated rules pertaining to owners and/or operators of treatment, storage and disposal facilities as set forth at 40 C.F.R. Parts 264 and 265.

12. Pursuant to Section 3004(n) of RCRA, 42 U.S.C. § 6924(n), EPA promulgated regulations to control and monitor air emissions at hazardous waste treatment, storage, and disposal facilities. 40 C.F.R. Parts 264 and 265, Subparts AA, BB, and CC.

13. Pursuant to Section 3004 of RCRA, 42 U.S.C. § 6924, EPA promulgated regulations governing the management and monitoring of tanks and tank systems that

store or treat hazardous waste. 40 C.F.R. Parts 264 and 265, Subpart J.

14. Respondent is incorporated in and doing business in the State of Delaware. Respondent also does business in Georgia, Kentucky, Illinois, Michigan, Minnesota, Missouri, New Jersey, Ohio and Virginia. Respondent's corporate headquarters' address is The American Road, Dearborn, Michigan 48126.

15. Respondent states that it has previously completed tasks to ensure compliance with the applicable provisions of 40 C.F.R. Part 265, Subpart CC and/or the applicable authorized state requirements, at each of the Facilities. See also Michigan Part 111 Administrative Rule 299.9634. This Consent Agreement makes no findings regarding, and in no way resolves any issues concerning, compliance with the provisions of 40 C.F.R. Part 265, Subpart CC, or the analogous authorized state requirements, at Respondent's Facilities.

16. This Consent Agreement is entered into pursuant to Sections 3008(a) of RCRA, 42 U.S.C. § 6928(a), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 40 C.F.R. Part 22 (the "Consolidated Rules"). Specifically, the Complainants and the Respondent (collectively known as the "Parties") have determined that settlement is in the Parties' interests and, therefore, have agreed to the terms of this written Consent Agreement. 40 C.F.R. § 22.18(b).

17. EPA has provided notice concerning the actions commenced by the issuance of complaints by EPA (Docket Nos. RCRA-5-99-010; and RCRA-05-2003-003), and the enforcement actions initiated herein (Docket Nos. RCRA -02-2003-7104; RCRA -03-2003-0062; RCRA-04 - 2003-4001(b); and RCRA -07-2003-0050) to the appropriate

Atlanta Assembly Plant, 340 Henry Ford II Avenue, Hapeville, Georgia 30354
[GAD003 305 307];

Chicago Assembly Plant, 12600 S. Torrence Avenue Chicago, Illinois 60633
[ILD 060 364 882];

Dearborn Assembly Plant, 3001 Miller Road, Dearborn, Michigan 48121
[MID 000 809 764];

Edison Assembly Plant, 939 Highway #1, Edison, New Jersey 08818
[NJD 002 143 782];

Kansas City Assembly Plant, Highway 69, Claycomo, Missouri 64119
[MOD 007 118 078];

Kentucky Truck Plant, 3001 Chamberlain Lane, Louisville, Kentucky 40241
[KYD 053 351 227];

Louisville Assembly Plant, Fern Valley Rd at Grade Ln Louisville, Kentucky
40203 [KYD 071 315 899];

Michigan Truck Plant, 38303 Michigan Avenue, Wayne, Michigan 48184
[MID 000 809 228];

Norfolk Assembly Plant, 2424 Ford Drive, Norfolk, Virginia 23523-2495
[VAD 003 177 391];

Ohio Assembly Plant, 650 Miller Road, Avon Lake, Ohio 44012
[OHD 020 626 669];

St. Louis Assembly Plant, 6250 North Lindbergh Blvd., Hazelwood, Missouri
63042 [MOD 006 272 876];

Twin Cities Assembly Plant, 966 S. Mississippi River Road, St. Paul, Minnesota
55116 [MND 006 207 773];

Wayne Assembly Plant, 37625 Michigan Avenue, Wayne, Michigan 48184
[MID 005 379 706]; and

Wixom Assembly Plant, 28801 Wixom Road, Wixom, Michigan 48393
[MID 006 379 914].

(These facilities are collectively referred to as "the Facilities").

24. Respondent has filed Notifications of Hazardous Waste Activities ("Notifications") for the Facilities pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930.

25. Respondent paints vehicles at each of the Facilities. Vehicles are painted inside paint booths. The paint booths are equipped with devices, termed "applicators," which apply primer, base coat or top coat (collectively termed "paint").

26. Each Facility has a "paint kitchen" where Respondent stores and/or mixes paints. Paint is delivered to the applicators in the paint booths through "delivery lines." Delivery lines consist of a series of pipes, tubing, and other equipment.

27. Respondent cleans both the applicators and delivery lines, termed "painting equipment," using a solvent it terms "purge solvent." The purge solvent typically contains an organic concentration of at least ten percent (10%) by weight.

28. The purge solvent contacts, removes and dissolves the residual paint from the painting equipment.

29. Once the residual paint has been removed or dissolved from the painting equipment, the purge solvent is conveyed through a series of pipes, connectors, pumps, valves, tanks and other ancillary equipment, e.g., "purge pots." The Respondent terms this a "purge recovery system." The purge recovery systems extend from the paint booths to outdoor hazardous waste storage tank(s) at each Facility. The purge recovery systems do not include the delivery lines or applicators.

30. Respondent also utilizes a purge solvent to clean the paint kitchens and their associated purge recovery lines. Respondent states that these lines come in contact with the purge solvent less than 300 hours per calendar year. Lines that contain or come in contact with purge solvent less than 300 hours per calendar year are not covered by the

Consent Agreement and Final Order.

31. Each of the Facilities utilize a purge recovery system similar to the system described in paragraph 29 of this Consent Agreement.

32. Representatives of EPA and/or States which are authorized to administer the hazardous waste program conducted RCRA Compliance Evaluation Inspections ("CEIs") at the following Facilities:

(a) on August 5, 1998, EPA and the Ohio Environmental Protection Agency (Ohio EPA) conducted a CEI at Respondent's Ohio Assembly Plant;

(b) on March 7, 2000, EPA and the Kentucky Department for Environmental Protection (KYDEP) conducted a CEI at Respondent's Louisville Assembly Plant;

(c) on May 3 and 4, 2000, EPA and the Georgia Environmental Protection Division (Georgia EPD) conducted a CEI at Respondent's Atlanta Assembly Plant;

(d) on October 26, 2000, EPA and the New Jersey Department of Environmental Protection (New Jersey DEP) conducted a CEI at Respondent's Edison Assembly Plant;

(e) on November 2, 2000, EPA and KYDEP conducted a CEI at Respondent's Kentucky Truck Plant;

(f) on January 24 and 25, 2001, the Missouri Department of Natural Resources (MDNR) conducted a CEI at the Respondent's Kansas City Assembly Plant. The MDNR subsequently referred this inspection to EPA for enforcement on December 24, 2002;

(g) on August 24, 2001, EPA conducted a focused inspection of the hazardous waste tank system at Respondent's Chicago Assembly Plant;

(h) on December 4, 2001, EPA conducted a focused inspection of the hazardous waste tank system at Respondent's Ohio Assembly Plant;

authorized states (listed in Attachment A), pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

18. The Consolidated Rules provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order. 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

19. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of this Consent Agreement and agrees not to contest EPA's jurisdiction with respect to execution of this Consent Agreement, issuance of the attached Final Order, or the enforcement thereof. 40 C.F.R. § 22.18.

20. Respondent waives any and all rights under any provision of law to a hearing on the allegations contained in this Consent Agreement. Respondent also waives any right to contest the allegations, conclusions and determinations in this Consent Agreement and any right to appeal the Consent Agreement or the Final Order that accompanies this Consent Agreement. See 40 C.F.R. § 22.18.

21. For the purposes of this proceeding, Respondent neither admits nor denies the specific factual allegations contained in the Complaint or otherwise contained in this Consent Agreement. 40 C.F.R. § 22.18(b).

22. Respondent agrees to pay the civil penalty specified in Section IV of this Consent Agreement. 40 C.F.R. § 22.18(b).

II. Factual Basis

23. Respondent is and was at all times relevant to this matter the owner and operator of the following facilities:

(i) on October 22-23, 2002, EPA and Virginia Department of Environmental Quality conducted a CEI at Respondent's Norfolk Assembly Plant; and

(j) on November 18-22, 2002, EPA conducted a CEI at Respondent's Chicago Assembly Plant.

33. At each of the Facilities specified in paragraph 32(a)-(i), the EPA and/or the State environmental agency determined the following: that the Respondent's purge solvent is a hazardous waste; that the use of the solvent is to remove residual paint from the painting equipment; that once the purge solvent is physically removed from the paint equipment it is not used again to clean either the delivery lines, painting equipment or paint applicators; that the purge solvent becomes a hazardous waste when it is evacuated from the paint applicator; that the purge solvent is, at a minimum, hazardous for the characteristic of ignitability and is assigned "EPA Hazardous Waste Number" D001; that the purge solvent is then conveyed through the purge recovery system to the hazardous waste tank(s); and that all the equipment associated with the purge recovery system and the hazardous waste storage tanks are subject to the hazardous waste tank system requirements of RCRA.

34. Based on the CEIs, and information from Respondent, EPA and/or the State environmental agencies have determined that, for the ancillary equipment, and its secondary containment associated with the hazardous waste storage tanks systems which store paint waste and purge solvent, at all or most of the Facilities, Respondent did not:

- (a) provide evidence of written assessments reviewed and certified by independent, qualified, registered professional engineers attesting to the integrity of each tank system;
- (b) provide evidence of a tightness test prior to putting each tank system into use; (c)

have an adequate secondary containment designed and operated to contain and detect releases from each Facility's ancillary equipment associated with the hazardous waste tank system; (d) conduct inspections, at least once each operating day, of the above-ground portions of the tank system to detect leaks or releases; (e) conduct inspections on a daily basis of above ground portions of the ancillary equipment; and (f) document the inspections in each facility's operating records.

35. During the CEIs, EPA and/or the State environmental agency noted that the Respondent had: (a) not marked each piece of equipment that is part of the purge recovery system and comes in contact with the purge solvent in a manner that readily distinguished it from other pieces of equipment; (b) not monitored each pump in light liquid service to detect leaks; (c) not checked by visual inspection each calendar week for indications of liquids dripping from pump seals; (d) not monitored each valve in gas/vapor or light liquid service on a monthly basis to detect leaks; and (e) not identified, in Respondent's Facility operating record, for each piece of such equipment: (i) its identification number and hazardous waste management unit identification, (ii) its approximate location within the Facility (e.g., identity of hazardous waste management unit on a facility plot plan), (iii) the percent-by-weight of total organics in the hazardous waste stream at certain equipment, (iv) the type of equipment (e.g., pump), (v) the hazardous waste state at the equipment (e.g., liquid); and (vi) the method of compliance with the standard (e.g., monthly leak detection and repair). Additionally, Respondent had not monitored, by the methods specified in 40 C.F.R. §265.1063(b), the pumps and valves to detect leaks.

36. During the focused inspection at both the Respondent's Chicago Assembly Plant and Ohio Assembly Plant specified in paragraphs 32(f) and (g), EPA noted that, for the ancillary equipment, and its secondary containment, as applicable, associated with the hazardous waste tank systems, which contain the mixture of paint waste and purge solvent, Respondent did not: (a) have written assessments reviewed and certified by an independent, qualified, registered professional engineer attesting to the integrity of the tank system's ancillary equipment and its secondary containment; (b) have proof that Respondent performed tightness tests of the tank system to locate leaks; (c) have proof that secondary containment for the tank systems was adequately designed and operated to contain and detect releases; (d) provide built-in, continuous leak detection system capable of detecting a release within 24 hours or the earliest practicable time; (e) conduct inspections, at least once each operating day, of the above-ground portions of the entire tank system to detect leaks or releases; and (f) document in each Facility's operating record the daily inspections of the tank system.

37. On or about September 30, 1999, EPA Region 5 issued an administrative complaint to Respondent alleging (in Count 1) violations of RCRA at Respondent's Ohio Assembly Plant through failure to meet the requirements for:

- (a) marking of equipment as required by 40 C.F.R. § 265.1050;
- (b) leak detection monitoring as required by 40 C.F.R. §§ 265.1052 through 265.1062; and
- (c) recordkeeping as required by 40 C.F.R. § 265.1064.

38. On November 14, 2002, EPA Region 5 issued an administrative complaint to Respondent alleging (in two counts) violations of the RCRA Subpart J regulations for the

hazardous waste tank system containing the mixture of waste paint and purge solvent at Respondent's Ohio Assembly Plant for failing to:

- (a) meet design and installation requirements for new tank systems as required by Ohio Administrative Code [OAC] 3745-66-92;
- (b) meet secondary containment requirements as required by OAC 3745-66-93.
- (c) conduct inspections, each day of operation, of the tank system as required by OAC 3745-66-95.

39. Respondent contends that the purge solvent does not become a hazardous waste until it is stored in hazardous waste tank(s) and that, while the purge solvent remains in the purge solvent recovery system it continues to perform cleaning functions for which the solvent was originally manufactured. Respondent further contends that the solvent recovery system is an integral part of the painting process (without which vehicles could not be painted effectively) and the equipment at issue is subject to the RCRA manufacturing process unit exemption, 40 C.F.R. § 261.4(c). Respondent contends that its purge solvent recovery systems are not subject to the requirements of 40 C.F.R. Part 265, Subparts J and BB, except for tanks used solely for final storage of the paint waste and purge solvent.

40. As a result of information exchanged during settlement negotiations, the Parties agree that, in general, similar circumstances may exist at each of Respondent's Facilities (including those Facilities which have not been subject to a CEI) and to the extent that issues with respect to 40 C.F.R. Part 265, Subparts J or BB (or the applicable analogous requirements of any applicable authorized state program) now exist or have existed at those Facilities, those issues should be addressed in this Consent Agreement.

41. Entry of this Consent Agreement is an appropriate means of resolving the alleged violations identified in the administrative complaints issued by Region 5 (Docket Nos. RCRA-5-99-010; and RCRA-05-2003-003) and, without the issuance of further administrative complaints for such identical, corollary, or analogous violations as may exist at Respondent's other Facilities.

III. Conclusions of Law and EPA Determinations

42. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10. See also: GHWMR § 391-3-11-.02 (260.10) (Georgia); Title 35 IAC § 720.110 (Illinois); 401 KAR 30:010 Section 1 (Kentucky); Michigan Part 111 Administrative Rule 299.9106(i) (Michigan); MRC § 7045.0020 (Minnesota); Mo. Rev. Stat. §260.360(17) (Missouri); 40 C.F.R. § 260.10(1993)(N.J.A.C. 7:26G-4.1(a)) (New Jersey); OAC 3745 § 50-10(81) (Ohio); 9 VAC 20-60-260 (incorporating by reference 40 C.F.R. § 260.10) (Virginia).

43. Respondent is a "generator" as defined in 40 C.F.R. § 260.10. See also: GHWMR § 391-3-11-.02 (260.10) (Georgia); Title 35 IAC § 720.110 (Illinois); 401 KAR 30:010 Section 1 (Kentucky); Michigan Part 111 Administrative Rule 299.9104(a) (Michigan); MRC § 7045.0020 (Minnesota); Mo. Rev. Stat. §260.360(10) (Missouri); 40 C.F.R. § 260.10(1993)(N.J.A.C. 7:26G-4.1(a)) (New Jersey); OAC 3745 § 50-10(81) (Ohio); 9 VAC 20-60-260 (incorporating by reference 40 C.F.R. § 260.10) (Virginia).

44. Respondent, at each Facility, generates a mixture of paint waste and purge solvent that is a hazardous waste. See Factual Basis, paragraphs 29, 31 and 33.

45. The purge solvent generated by Respondent, as described in paragraphs 27, 28 and 29, is a characteristic hazardous waste for its ignitability (EPA Hazardous Waste

Code, D001) as defined at 40 C.F.R. § 261.21 and typically contains an organic concentration of at least ten percent (10%) by weight. See also: GHWMR § 391-3-11-.07(1) (261.21) (Georgia); Title 35 IAC § 721.121 (Illinois); 401 KAR 31:030 Section 2 (Kentucky); Michigan Part 111 Administrative Rule 299.9212(1) (Michigan); MRC § 7045.0131 (Minnesota); Mo. Code Regs. Ann. Title 10, Section 25-4.261 (Missouri); 40 C.F.R. § 261.21(1993)(N.J.A.C. 7:26G-5.1(a)) (New Jersey); OAC 3745 § 51-21 (Ohio); 9 VAC 20-60-261 (incorporating by reference 40 C.F.R. § 261.21) (Virginia).

46. Respondent generates more than 1,000 kilograms of the hazardous waste per calendar month at each of the Facilities.

47. Respondent "stores" or engages in the "storage" of "hazardous waste" at each of the Facilities as those terms are defined in 40 C.F.R. § 260.10. See also: GHWMR § 391-3-11-.02 (260.10) (Georgia); Title 35 IAC § 720.110 (Illinois); 401 KAR 30:010 Section 1 (Kentucky); Michigan Part 111 Administrative Rule 299.9107(cc) (Michigan); MRC § 7045.0020 (Minnesota); Mo. Code Regs. Ann. Title 10 Section 25-3.260(1) and (3)(H)3 (Missouri); 40 C.F.R. § 260.10(1993)(N.J.A.C. 7:26G-4.1(a)) (New Jersey); OAC 3745 § 50-10(99) (Ohio); 9 VAC 20-60-260 (incorporating by reference 40 C.F.R. § 260.10) (Virginia).

48. Respondent is an "owner" and/or "operator" of Facilities that engage in hazardous waste management and are "facilit[ies]" as defined in 40 C.F.R. § 260.10. See also: GHWMR § 391-3-11-.02 (260.10) (Georgia); Title 35 IAC § 720.110 (Illinois); 401 KAR 30:010 Section 1 (Kentucky); Michigan Part 111 Administrative Rules 299.9106(g) and (f) (Michigan); MRC § 7045.0020 (Minnesota); Mo. Code Regs. Ann. Title 10, Section 25-3.260(1) and Mo. Code Regs. Ann. Title 10, Section 25-

3.260(3)(O)4 (Missouri); 40 C.F.R. § 260.10(1993)(N.J.A.C. 7:26G-4.1(a)) (New Jersey); OAC 3745 § 50-10(77) and (76) (Ohio); 9 VAC 20-60-260 (incorporating by reference 40 C.F.R. § 260.10) (Virginia).

49. A person who stores hazardous waste is subject to the requirements of Section 3004 of RCRA, 42 U.S.C. § 6924, and its implementing regulations (see 40 C.F.R. Parts 264 and 265).

50. EPA has determined and alleges that Respondent uses the purge recovery system at each of its facilities to manage a hazardous waste (see Factual Basis, paragraphs 29, 31 and 33) and, therefore, is subject to the requirements of Subtitle C of RCRA, 42 U.S.C. §§ 6901-39(e), and its implementing requirements at 40 C.F.R. Parts 260-265. See also: GHWMR §§ 391-3-11-.08, .10 (260-265) (Georgia); Title 35 IAC Parts 702, 703, 720 through 726, 728, 729 and 739 (Illinois); 401 KAR 32:030 Section 5, 34:010 Section 1(6)(c), 35:010 (Kentucky); Michigan Part 111 Administrative Rules 299.9601-9638 (Michigan); MRC §§ 7045.0292 (Minnesota); Mo. Code Regs. Ann. Title 10, Section 25-3.260 through Mo. Code Regs. Ann. Title 10, Section 25-7.270 (Missouri); 40 C.F.R. Parts 260 - 265(1993)(N.J.A.C. 7:26G-4.1 - 7:26G- 9.1) (New Jersey); OAC 3745-50 through 3745-69 (Ohio); 9 VAC 20-60-262, 264 and 265 (incorporating by reference 40 C.F.R. §§ 262, 264 and 265) (Virginia).

51. Pursuant to 40 C.F.R. §§ 264.1(g)(3) and 265.1(c)(7), the requirements of 40 C.F.R. Parts 264 and 265 do not apply to a generator accumulating hazardous waste on-site in compliance with 40 C.F.R. § 262.34, except to the extent such requirements of 40 C.F.R. Part 265 are included in 40 C.F.R. § 262.34. See also: GHWMR §§ 391-3-11-.08, .10 (262, 264 and 265) (Georgia); Title 35 IAC Part 724.101 (Illinois); 401 KAR 32:030

Section 5, 34:010 Section 1, 35:010 (Kentucky); Michigan Part 111 Administrative Rules 299.9503(1)(b) (Michigan); MRC §§ 7045.0292, 7045.0450 and 7045.0552 (Minnesota); Mo. Code Regs. Ann. Title 10, Section 25-7.264(1) and 7.265(1) (Missouri); 40 C.F.R. § 264.1(g)(3)(1993)(N.J.A.C. 7:26G-6.1(a)) and 40 C.F.R. § 265.1(c)(7)(1993)(N.J.A.C. 7:26G-9.1(a)) (New Jersey); OAC 3745-54-01(G)(3) (Ohio); 9 VAC 20-60-262, 264 and 265 (incorporating by reference 40 C.F.R. §§ 262, 264 and 265) (Virginia).

52. Certain generators may utilize tanks and tank systems to treat or store hazardous waste for a period of less than 90 days without a permit or interim status provided that the tank and tank systems comply with, inter alia, "the applicable requirements of Subparts J, AA, BB, and CC of 40 C.F.R. Part 265 except §§ 265.197(c) and 265.200." 40 C.F.R. § 262.34(a)(ii). See also: GHWMR § 391-3-11-.08 (262.34) (Georgia); Title 35 IAC Part 722.134 (Illinois); 401 KAR 32:030 Section 5(1) (Kentucky); Michigan Part 111 Administrative Rule 299.9306(1)(a)(ii) (Michigan); MRC § 7045.0292 (Minnesota); Mo. Code Regs. Ann. Title 10, Section 25-5.262(1) (Missouri); 40 C.F.R. § 262.34(a)(ii)(1993)(N.J.A.C. 7:26G-6.1(a)) (New Jersey); OAC 3745 § 52-34(A)(1)(b) (Ohio); 9 VAC 20-60-262 (incorporating by reference 40 C.F.R. § 262.34) (Virginia).

53. Pursuant to 40 C.F.R. § 260.10, a "tank" is defined as "a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support." See also: GHWMR § 391-3-11 (260.10) (Georgia); Title 35 IAC Part 720.110 (Illinois); 401 KAR 35:280 Section 2 (Kentucky); Michigan Part 111 Administrative Rule 299.9108(a) (Michigan); MRC § 7045.0020 (Minnesota); Mo. Code Regs. Ann.

Title 10, Section 25-3.260(1) (Missouri); 40 C.F.R. § 260.10(1993)(N.J.A.C. 7:26G-4.1(a)) (New Jersey); OAC 3745-50-10(102) (Ohio); 9 VAC 20-60-260 (incorporating by reference 40 C.F.R. § 260.10) (Virginia).

54. Pursuant to 40 C.F.R. § 260.10, a "tank system" is defined as "a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system." See also: GHWMR § 391-3-11-.02 (260.10) (Georgia); Title 35 IAC Part 720.110 (Illinois); 401 KAR 30:010, Section 1 (Kentucky); Michigan Part 111 Administrative Rule 299.9108(b) (Michigan); MRC § 7045.0020 (Minnesota); Mo. Code Regs. Ann. Title 10, Section 25-3.260(1) (Missouri); 40 C.F.R. § 260.10(1993)(N.J.A.C. 7:26G-4.1(a)) (New Jersey); OAC 3745-50-10(103) (Ohio); and 9 VAC 20-60-260 (incorporating by reference 40 C.F.R. § 260.10) (Virginia).

55. Pursuant to 40 C.F.R. § 260.10, "ancillary equipment" is defined as "any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from the point of generation to a storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site." See also: GHWMR § 391-3-11-.02 (260.10) (Georgia); Title 35 IAC Part 720.110 (Illinois); 401 KAR 30:010, Section 1 (Kentucky); Michigan Part 111 Administrative Rule 299.9101(q) (Michigan); MRC § 7045.0020 (Minnesota); Mo. Code Regs. Ann. Title 10, Section 25-3.260(1) (Missouri); 40 C.F.R. § 260.10(1993)(N.J.A.C. 7:26G-4.1(a)) (New Jersey); OAC 3745-50-10(5) (Ohio); and 9 VAC 20-60-260 (incorporating by reference 40 C.F.R. § 260.10) (Virginia).

56. Pursuant to 40 C.F.R. §265.190, the requirements of 40 C.F.R. Part 265, Subpart J apply to owners and operators of facilities that use tank systems for storage of hazardous waste except under certain conditions. See also: GHWMR § 391-3-11-.10 (265.190) (Georgia); Title 35 IAC Part 725.290 (Illinois); 401 KAR35:190 Section 1 (Kentucky); Michigan Part 111 Administrative Rule 299.9615(1) (Michigan); MRC § 7045.0648 (Minnesota); Mo. Code Regs. Ann. Title 10, Section 25-7.265(1) (Missouri); 40 C.F.R. § 265.190(1993)(N.J.A.C. 7:26G-9.1(a)) and 40 C.F.R. § 265.190(2002) (New Jersey); OAC 3745-66-90 (Ohio); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.190) (Virginia).

57. Pursuant to 40 C.F.R. §§ 265.191(a) and 265.192(a), with exceptions not relevant to this matter, an owner or operator must obtain and keep on file a written assessment reviewed and certified by an independent, qualified, registered professional engineer in accordance with 40 C.F.R. §270.11(d) that attests to the tank systems' integrity. See also: GHWMR § 391-3-11-.10 (265.191 and 265.192) (Georgia); Title 35 IAC Parts 725.291(a) and 725.292(a) (Illinois); 401 KAR35:190 Section 2 (Kentucky); Michigan Part 111 Administrative Rule 9615(1) (Michigan); MRC § 7045.0648 (Minnesota); Mo. Code Regs. Ann. Title 10, Section 25-7.265(1) (Missouri); 40 C.F.R. § 265.191(a)(1993)(N.J.A.C. 7:26G-9.1(c)(7)) and 40 C.F.R. § 265.192(a)(1993)(N.J.A.C. 7:26G-9.1(a)) (New Jersey); OAC 3745-66-92(A) and (G) (Ohio); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.191(a) and 265.192(a)) (Virginia).

58. Pursuant to 40 C.F.R. § 265.193(a), an owner or operator must provide secondary containment so as to prevent the release of hazardous waste or hazardous constituents to the environment. See also: GHWMR § 391-3-11-.10 (265.193) (Georgia);

Title 35 IAC Part 725.293 (Illinois); 401 KAR35:190 Section 4 (Kentucky); Michigan Part 111 Administrative Rule 299.9615(2) (Michigan); MRC § 7045.0648 (Minnesota); Mo. Code Regs. Ann. Title 10, Section 25-7.265(1) (Missouri); 40 C.F.R. § 265.193(a)(1993)(N.J.A.C. 7:26G-9.1(c)(9)) (New Jersey); OAC 3745-66-93 (Ohio); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.193(a)) (Virginia).

59. Pursuant to 40 C.F.R. § 265.195(a) and (c), the owner or operator must inspect, where present, at least once each operating day overflow/spill control equipment, any above-ground portion of the tank system, data gathered from monitoring equipment and leak detection and the construction materials/area immediately surrounding the externally accessible portion of the tank system including the secondary containment. The owner or operator must also document these inspections in the operating record. See also: GHWMR § 391-3-11-.10 (265.195(a) and (c)) (Georgia); Title 35 IAC Part 725.295 (Illinois); 401 KAR35:190 Section 6 (Kentucky); Michigan Part 111 Administrative Rule 299.9615(1) (Michigan); MRC § 7045.0648 (Minnesota); Mo. Code Regs. Ann. Title 10, Section 25-7.265(1) (Missouri); 40 C.F.R. § 265.195(a)(1993)(N.J.A.C. 7:26G-9.1(a)) and 40 C.F.R. § 265.195(c)(1993)(N.J.A.C. 7:26G-9.1(a)) (New Jersey); OAC 3745-66-95(A) (Ohio); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.195(a) and (c)) (Virginia).

60. EPA has determined and alleges the Respondent's purge recovery system at each of its Facilities consists of one or more hazardous waste storage tanks and all associated ancillary equipment (see Factual Basis, paragraphs 29, 31 and 33) and are therefore subject to the requirements of 40 C.F.R. Part 265, Subpart J. 40 C.F.R. § 265.190. See also: GHWMR § 391-3-11-.10 (265.190) (Georgia); Title 35 IAC Part

725.290 (Illinois); 401 KAR35:190 Section 1 (Kentucky); Michigan Part 111 Administrative Rules 299.9108(a) and 9101(q) (Michigan); MRC § 7045.0648 (Minnesota); Mo. Code Regs. Ann. Title 10, Section 25-7.265(1) (Missouri); 40 C.F.R. § 265.190(1993)(N.J.A.C. 7:26G-9.1) and 40 C.F.R. § 265.190(2002) (New Jersey); OAC 3745-50-10 (Ohio); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.190) (Virginia).

61. EPA has determined and alleges that Respondent has at some or all of its Facilities, for the ancillary equipment associated with the hazardous waste storage tanks systems used to manage the mixture of paint waste and purge solvent, failed to obtain and keep on file a written integrity assessment reviewed and certified by an independent, qualified, registered professional engineer (See also Factual Basis, paragraph 36) as required by 40 C.F.R. §§ 265.191(a) and 265.192(a) (Respondent states that it has obtained and kept integrity assessments for ancillary equipment at four of the Facilities). Each such failure constitutes a separate violation of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and subjects Respondent to penalties under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g). See also: GHWMR § 391-3-11-.10 (265.191(a) and 265.192(a)) (Georgia); Title 35 IAC Parts 725.291 and 725.292 (Illinois); 401 KAR35:190 Section 2 (Kentucky); Michigan Part 111 Administrative Rule 299.9615(1) (Michigan); MRC § 7045.0648 (Minnesota); Mo. Code Regs. Ann. Title 10, Section 25-7.265(1) (Missouri); 40 C.F.R. § 265.191(a)(1993)(N.J.A.C. 7:26G-9.1(c)(7)) and 40 C.F.R. § 265.192(a)(1993)(N.J.A.C. 7:26G-9.1(a)) (New Jersey); OAC 3745-66-91 and 3745-66-92 (Ohio); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. §§ 265.191(a) and 265.192(a)) (Virginia).

62. EPA has determined and alleges that Respondent has failed, for each Facility's ancillary equipment, associated with the hazardous waste tank system that manages the mixture of paint waste and purge solvent, to provide secondary containment (see Factual Basis, paragraph 36) as required by 40 C.F.R. § 265.193 (f). Each such failure constitutes a separate violation of RCRA enforceable under RCRA Section 3008(a), 42 U.S.C. § 6928(a), and subjects Respondent to penalties under RCRA Section 3008(g), 42 U.S.C. § 6928(g). See also: GHWMR § 391-3-11-.10 (265.193(f)) (Georgia); Title 35 IAC 725.293 (Illinois); 401 KAR35:190 Section 4 (Kentucky); Michigan Part 111 Administrative Rule 299.9615(1) (Michigan); MRC § 7045.0648 (Minnesota); Mo. Code Regs. Ann. Title 10, Section 25-7.265(1) (Missouri); 40 C.F.R. 265.193(f)(1993)(N.J.A.C. 7:26G-9.1(c)(9)) (New Jersey); OAC 3745-66-93(B)(C) and (F) (Ohio); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.193(f)) (Virginia).

63. EPA has determined and alleges that Respondent has failed, at each of its Facilities, to provide a leak detection system, for each Facility's ancillary equipment, and its secondary containment, associated with the tank system that manages the mixture of waste paint and purge solvent, that will detect the failure of either the primary and secondary containment structure or a release of hazardous waste or accumulated liquid within 24 hours (see Factual Basis, paragraph 34(c), 36(c) and (d)) as required by 40 C.F.R. §265.193(c) and (f). Each such failure constitutes a separate violation of RCRA enforceable under RCRA Section 3008(a), U.S.C. § 6928(a), and subjects Respondent to penalties under RCRA Section 3008(g), 42 U.S.C. § 6928(g). See also: GHWMR § 391-3-11-.10 (265.193(c) and (f)) (Georgia); Title 35 IAC 725.293 (Illinois); 401 KAR35:190

Section 1 (Kentucky); Michigan Part 111 Administrative Rule 299.9615(1) (Michigan); MRC § 7045.0648 (Minnesota); Mo. Code Regs. Ann. Title 10, Section 25-7.265(1) (Missouri); 40 C.F.R. § 265.193(c)(1993)(NJAC 7:26G-9.1(c)(9)) and 40 C.F.R. § 265.193(f)(1993)(NJAC 7:26G-9.1(c)(9)) (New Jersey); OAC 3745-66-93(B)(C) and (F) (Ohio); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.193(c) and (f)) (Virginia).

64. EPA has determined and alleges that Respondent has failed at each of its Facilities, to inspect at least once each operating day any above-ground portion of the ancillary equipment, and its secondary containment, associated with the tank system to detect corrosion or releases of waste and to document in the operating record such inspections (see Factual Basis, paragraph 36) as required by 40 C.F.R. § 265.195(a)(2) and (c). Each such failure constitutes a separate violation of RCRA enforceable under RCRA Section 3008(a), 42 U.S.C. § 6928(a), and subjects Respondent to penalties under RCRA Section 3008(g), 42 U.S.C. § 6928(g). See also: GHWMR § 391-3-11-.10 (265.195(a)(2) and (c)) (Georgia); Title 35 IAC Part 725.295(a) (Illinois); 401 KAR 35:190 Section 6 (Kentucky); Michigan Part 111 Administrative Rule 299.9615(1) (Michigan); MRC § 7045.0648 (Minnesota); Mo. Code Regs. Ann. Title 10, 25-7.265(1) (Missouri); 40 C.F.R. § 265.195(a)(2)(1993)(N.J.A.C. 7:26G-9.1(a)) and 40 C.F.R. § 265.195(c)(1993)(N.J.A.C. 7:26G-9.1(a)) (New Jersey); OAC 3745-66-95(A) and (C) (Ohio); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.195(a)(2) and (c)) (Virginia).

65. Pursuant to 40 C.F.R. § 265.1050(a), the requirements of 40 C.F.R. Part 265, Subpart BB apply to owners and operators of facilities that treat, store and dispose of

hazardous waste. See also: GHWMR § 391-3-11-.10 (265.1050(a)) (Georgia); 401 KAR 35:280 Section 1 (Kentucky); Michigan Part 111 Administrative Rule 299.9306(1)(a)(ii) (Michigan); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.1050(a)) (Virginia).

66. Pursuant to 40 C.F.R. §265.1050(b), the requirements of 40 C.F.R. Part 265, Subpart BB, apply to equipment that contains or contacts hazardous waste with organic concentrations of at least ten percent (10%) by weight that are managed by a unit that is subject to the permitting requirements of 40 C.F.R. Part 270 or a unit that is exempt from permitting under 40 C.F.R. §§ 262.34, 264.1(g)(3) and 265.1(c)(7). See also: GHWMR § 391-3-11-.10 (265.1050(b)) (Georgia); 401 KAR 35:280 Section 2 (Kentucky); Michigan Part 111 Administrative Rule 299.9306(1)(a)(ii) (Michigan); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.1050(b)) (Virginia).

67. Pursuant to 40 C.F.R. § 265.1051, "equipment" is defined as "each valve, pump, compressor, pressure relief device, sampling connection system, open-ended valve or line, or flange or other connector, and any control devices or systems required by this Subpart." See also: GHWMR § 391-3-11-.10 (265.1051) (Georgia); 401 KAR 35:005, Section 1 (Kentucky); Michigan Part 111 Administrative Rule 299.9306(1)(a)(ii) (Michigan); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.1051) (Virginia).

68. Pursuant to 40 C.F.R. § 265.1050(c) "each piece of equipment to which this subpart applies shall be marked in such a manner that it can be distinguished readily from other pieces of equipment." See also: GHWMR § 391-3-11-.10 (265.1050(c)) (Georgia); 401 KAR 35:280, Section 2 (Kentucky); Michigan Part 111 Administrative Rule

299.9306(1)(a)(ii) (Michigan); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.1050(c)) (Virginia).

69. Pursuant to 40 C.F.R. § 265.1052(a)(1), each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in 40 C.F.R. § 265.1063(b), with certain exceptions. See also: GHWMR § 391-3-11-.10 (265.1052(a)(1)) (Georgia); 401 KAR 35.280 Section 3 (Kentucky); Michigan Part 111 Administrative Rule 299.9306(1)(a)(ii) (Michigan); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.1052(a)(1)) (Virginia).

70. Pursuant to 40 C.F.R. § 265.1052(e), any pump that is designated as having no detectable emissions is exempt from the monthly monitoring requirements provided that, inter alia, the pump has emission levels of less than 500 ppm above background and is tested "initially upon designation, annually, and at other times as requested by the Regional Administrator." See also: GHWMR § 391-3-11-.10 (265.1052(e)) (Georgia); 401 KAR 35.280 Section 3 (Kentucky); Michigan Part 111 Administrative Rule 299.9306(1)(a)(ii) (Michigan); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.1052(e)) (Virginia).

71. Pursuant to 40 C.F.R. § 265.1057(a), each valve in light liquid service shall be monitored monthly to detect leaks by the methods specified in 40 C.F.R. § 265.1063(b), with certain exceptions. See also: GHWMR § 391-3-11-.10 (265.1057(a)) (Georgia); 401 KAR 35.280 Section 8 (Kentucky); Michigan Part 111 Administrative Rule 299.9306(1)(a)(ii) (Michigan); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.1057(a)) (Virginia).

72. Pursuant to 40 C.F.R. § 265.1057(g), valves in gas/vapor or light liquid service appropriately designated as "unsafe to monitor" are exempt from the monitoring requirements of 40 C.F.R. § 265.1057(a) provided "the owner or operator of the valve determines that the valve is unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with paragraph (a) of this section" and "the owner or operator of the valve adheres to a written plan that requires monitoring of the valve as frequently as practicable during safe-to-monitor times." See also: GHWMR § 391-3-11-.10 (265.1057(g)) (Georgia); 401 KAR 35.280 Section 8 (Kentucky); Michigan Part 111 Rule 299.9306(1)(a)(ii) (Michigan); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.1057(g)) (Virginia).

73. Pursuant to 40 C.F.R. § 265.1064(b), for each piece of equipment to which 40 C.F.R. Part 265, Subpart BB applies, the following information must be recorded in the facility operating record:

- (a) equipment identification number and hazardous waste management unit identification;
- (b) approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan);
- (c) type of equipment (e.g., a pump or pipeline valve);
- (d) percent-by-weight total organics in the hazardous waste stream at the equipment;
- (e) hazardous waste state at the equipment (e.g., gas/vapor or liquid);
- (f) method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals").

See also: GHWMR § 391-3-11-.10 (265.1064(b)) (Georgia); 401 KAR 35.280 Section 15 (Kentucky); Michigan Part 111 Administrative Rule 299.9306(1)(a)

(Michigan); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.1064(b)) (Virginia).

74. EPA has determined and alleges that Respondent's purge recovery system (see Factual Basis, paragraph 29) is "equipment" as defined in 40 C.F.R. §§ 265.1031 and 265.1051, and is therefore subject to the requirements of 40 C.F.R. Part 265. See also: GHWMR § 391-3-11-.10 (265.1031 and 265.1051) (Georgia); 401 KAR 35.280 Section 8 (Kentucky) Michigan Part 111 Administrative Rule 299.9306(1)(a)(ii); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. §§ 265.1031 and 265.1051) (Virginia).

75. EPA has determined and alleges that Respondent has failed, at each of its Facilities, to mark each piece of equipment in such a manner that it can be distinguished readily from other pieces of equipment (see Factual Basis, paragraph 35) as required by 40 C.F.R. § 265.1050(c). Each such failure constitutes a separate violation of RCRA enforceable under RCRA Section 3008(a), 42 U.S.C. § 6928(a), and subjects Respondent to penalties under RCRA Section 3008(g), 42 U.S.C. § 6928(g). See also: GHWMR § 391-3-11-.10 (265.1050(c)) (Georgia); 401 KAR 35.280 Section 2 (Kentucky); Michigan Part 111 Administrative Rule 299.9306(1)(a)(ii) (Michigan); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. §§ 265.1050(c)) (Virginia).

76. EPA has determined and alleges that Respondent has failed, at each of its Facilities, to monitor certain equipment to detect leaks (see Factual Basis, paragraph 35) as required by 40 C.F.R. §§ 265.1052(a) and 265.1057(a). Each such failure constitutes a separate violation of RCRA enforceable under RCRA Section 3008(a), 42 U.S.C. § 6928(a), and subjects Respondent to penalties under RCRA Section 3008(g), 42 U.S.C. §

6928(g). See also: GHWMR § 391-3-11-.10 (265.1052(a) and 265.1057(a)) (Georgia); 401 KAR 35.280 Section 3 and 8 (Kentucky); Michigan Part 111 Administrative Rule 299.9306(1)(a)(ii) (Michigan); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. §§ 265.1052(a) and 265.1057(a)) (Virginia).

77. EPA has determined and alleges that Respondent has failed, at each of its Facilities, to maintain certain required information at the Facility (see Factual Basis, paragraph 35) as required by 40 C.F.R. § 265.1064(b). Each such failure constitutes a separate violation of RCRA enforceable under RCRA Section 3008(a), 42 U.S.C. § 2928(a), and subjects Respondent to penalties under RCRA Section 3008(g), 42 U.S.C. § 6928(g). See also: GHWMR § 391-3-11-.10 (265.1064(b)) (Georgia); 401 KAR 35.280 Section (Kentucky); Michigan Part 111 Administrative Rule 299.9306(1)(a)(ii) (Michigan); and 9 VAC 20-60-265 (incorporating by reference 40 C.F.R. § 265.1064(b)) (Virginia).

IV. Terms of Agreement

Based on the foregoing, the Parties agree to the entry of this Consent Agreement on the following terms:

A. Air Emissions Requirements Under RCRA

78. As set forth below, Respondent shall comply with the applicable provisions of 40 C.F.R. Part 265, Subpart BB, and/or the then applicable authorized state requirements, for all equipment at its Facilities that contain or come into contact with purge solvent containing an organic concentration of at least ten percent (10%) by weight.

79. By May 8, 2004, Respondent shall complete tasks that ensure compliance with the then applicable provisions of 40 C.F.R. Part 265, Subpart BB, and/or the then applicable authorized state requirements, at each of the Facilities.

80. Respondent shall, on or before July 8, 2004, submit to EPA for each Facility, to the extent required by the then applicable provisions of 40 C.F.R. Part 265, Subpart BB, and/or the then applicable state authorized requirements, the following:

- (a) a list of equipment to which 40 C.F.R. Part 265, Subpart BB (or the applicable authorized state requirement) applies, and its identification number;
- (b) a plot plan for location/identification of the equipment subject to 40 C.F.R. Part 265, Subpart BB (or the applicable authorized state requirement); and
- (c) methods of compliance with the applicable equipment standards in 40 C.F.R. §§265.1052-.1064 (or the applicable authorized state requirement).

81. On or before July 8, 2004, Respondent shall submit to EPA, for each Facility, a certification signed by a responsible corporate officer (or as otherwise permitted under 40 C.F.R. §270.11(a)(1)), stating that the Facility is in compliance with this Consent Agreement. These certifications shall be sent to the applicable EPA Regional Contact identified in paragraph 104, below, with a copy to Duncan Campbell, Enforcement and Compliance Assurance Branch (DE-9J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. The certification shall be as follows:

I certify under penalty of law that, to the best of my knowledge and belief, the tasks identified in paragraphs 78-80 of the Consent Agreement, to ensure compliance with *[insert either 40 C.F.R. Part 265, Subpart BB, and/or the applicable authorized state requirements]*, have been completed and that the Ford Motor Company *[insert name of the Plant]*, is in compliance with the applicable provisions of *[insert either 40 C.F.R.*

Part 265, Subpart BB, and/ or the applicable authorized state requirements]. All work was done under my direction or supervision according to a system designed to assure that qualified personnel implemented and completed tasks identified in paragraphs 78-80. This certification is based on my inquiry of the person or persons who performed the tasks, or those persons directly responsible for the person or persons who performed the tasks. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.¹

B. Tank and Tank System Requirements Under RCRA

82. As set forth below, Respondent shall comply with the then applicable provisions of 40 C.F.R. Part 265, Subpart J, and/or the then applicable authorized state requirements, for hazardous waste storage tank systems that contain the mixture of paint waste and purge solvent at each of the Facilities.

83. Except as otherwise provided in this paragraph or paragraph 85, Respondent states that it has completed tasks that ensure compliance with the applicable provisions of 40 C.F.R. Part 265, Subpart J, and/or the then applicable authorized state requirements, for hazardous waste tank systems that contain the mixture of paint waste and purge solvent at the Facilities as specified below in (a) and (b):

(a) performing an integrity assessment that complies with the requirements of 40 C.F.R §§ 265.191, 265.192 and/or the applicable authorized state requirements

¹ In making the certifications required under this Consent Agreement and Final Order, Respondent and its officers, agents and employees shall have the right to rely upon the letter issued by EPA, Region 5 contemporaneous with this Consent Agreement and Final Order, providing compliance guidance as to the requirements of 40 C.F.R. Part 265, Subparts J and BB with respect to, but not limited to, the conduct and documentation of visual inspections, labeling of certain ancillary equipment, leak detection monitoring, integrity assessment and certification of ancillary equipment, purge pots and funnels, and secondary containment. This footnote is also applicable to the certification required by paragraph 88 of this Consent Agreement and Final Order. While this paragraph does not preclude Respondent's good faith reliance on any other relevant guidance, exemption or variance issued by EPA or an authorized State, such good faith reliance will not preclude EPA from concluding that Respondent is, in fact, not in compliance with this Consent Agreement and Final Order.

(Respondent reports that integrity assessments were on file as of November 9, 2002, at the Michigan Truck, Atlanta Assembly, Wixom Assembly and Twin Cities Assembly Plants, and as of December 13, 2002, at the Wayne Assembly, Kentucky Truck, Ohio Assembly, St. Louis Assembly, Norfolk Assembly and Chicago Assembly Plants); and

(b) performing inspections as directed by 40 C.F.R. § 265.195(a), (b) and (c) or the applicable authorized state requirements (at all of the Facilities).

Respondent shall complete the tasks for performing an integrity assessment in a manner that complies with the requirements of 40 C.F.R §§ 265.191, 265.192 and/or the applicable authorized state requirements at the Dearborn Assembly, Edison Assembly, Kansas City Assembly and Louisville Assembly Plants by January 31, 2003.

84. By May 8, 2003, Respondent shall complete tasks that ensure compliance with the then applicable provisions of 40 C.F.R. § 265.193(f) or (g) and/or the then applicable authorized state requirements for ancillary equipment associated with hazardous waste tank systems that store the mixture of waste paint and purge solvent at each of the Facilities. Such tasks specifically require the Respondent to provide evidence of existing secondary containment or to provide secondary containment that complies with the then applicable requirements at 40 C.F.R. § 265.193(f) or (g) and/or the then applicable authorized state requirements to the extent the ancillary equipment is not exempt under 40 C.F.R. § 265.193(f).

85. Except for any Facilities receiving good cause exceptions under paragraph 106 of this Consent Agreement, on or before February 15, 2003, Respondent shall, for the ancillary equipment associated with the hazardous waste tank systems containing the mixture of waste paint and purge solvent, submit to EPA the following, to the extent required by the then applicable provisions of 40 C.F.R. Part 265, Subpart J, and/or the then applicable state authorized requirements:

The written integrity assessment that was reviewed and certified by an independent, qualified registered professional engineer as to the structural integrity and suitability for handling hazardous waste for the ancillary equipment associated with each tank system.

86. As of January 31, 2003, in addition to the requirements of the then applicable provisions of 40 C.F.R. Part 265, Subpart J, and/or the then applicable state authorized requirements, except for any Facilities receiving an exception under the good cause clause, Respondent shall keep in the operating records for each of its Facilities:

- (a) a diagram for each piping, instrumentation, and process flow for each tank system; and
- (b) documentation specifying the inspection plan to meet the requirements of 40 C.F.R. § 265.193(f) and 40 C.F.R. § 265.195 or the applicable authorized state requirements.

87. By July 8, 2003, in addition to the requirements of the then applicable provisions of 40 C.F.R. Part 265, Subpart J, and/or the then applicable state authorized requirements, for the ancillary equipment associated with the hazardous waste tank systems containing the mixture of paint waste and purge solvent, Respondent shall submit to EPA a detailed description of how the secondary containment system is constructed and operated to meet the then applicable requirements of 40 C.F.R. § 265.193 and/or the applicable authorized state requirements.

88. On or before July 8, 2003, for each of the Facilities as set forth in paragraph 23, above, Respondent shall submit to EPA a certification signed by a responsible corporate officer (or as otherwise permitted by 40 C.F.R. § 270.11(a)(1)), stating that the Facility is in compliance with this Consent Agreement. These certifications shall be sent to the applicable EPA Regional Contact identified in paragraph 104, below, with a copy to [Duncan Campbell, Enforcement and Compliance Assurance Branch (DE-9J), United

States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard,
Chicago, Illinois 60604-3590]. The certification shall be as follows:

I certify under penalty of law that, to the best of my knowledge and belief, the tasks identified in paragraphs 82-87 of the Consent Agreement, to ensure compliance with *[insert either 40 C.F.R. Part 265, Subpart J and/or the applicable authorized state requirements]* have been completed and that the Ford Motor Company, *[insert the facility name]*, is in compliance with the provisions of *[insert either 40 C.F.R. Part 265, Subpart J and/or the applicable authorized state requirements]*. All work was done under my direction or supervision according to a system designed to assure that qualified personnel implemented and completed the tasks identified in paragraphs 82-87. This certification is based on my inquiry of the person or persons who performed the tasks, or those persons directly responsible for the person or persons who performed the tasks. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

C. Civil Penalty

89. Respondent must pay a civil penalty in the amount of two hundred forty-four thousand dollars (\$244,000.00). Such civil penalty shall become due and payable within thirty (30) days of receipt of true and correct copies of the Consent Agreement and Final Order. Respondent must pay by cashiers' or certified check, or by electronic wire transfer, and it must be payable to the "Treasurer, the United States of America." If payment is made by cashier's check or certified check, the check must be mailed to:

U.S. EPA, Region 5, Regional Finance Office
P.O. Box 70753
Chicago, Illinois 60673

If the payment is made by electronic wire transfer, the electronic wire transfer must be sent to Bank One, NA, Chicago, Illinois 60604, for the credit of U.S. Environmental Protection Agency, referencing:

Routing Number - 071000013
Account Number - 1113399

The name of the Respondent, the billing document number and the Docket Number of this proceeding must be clearly marked on the face of the check, or in the electronic transfer. EPA will furnish Respondent with the billing document number upon entry of this Consent Agreement.

Failure to pay the full amount of the civil penalty assessed under this Consent Agreement may subject Respondent to a civil action to collect any unpaid portion of the civil penalty. Furthermore, in order to avoid the assessment of interest, administrative costs and late payment penalty in connection with such civil penalties, as described in paragraph 93 of this Consent Agreement, Respondent must pay the civil penalty no later than thirty (30) calendar days after which the Consent Agreement and Final Order is mailed or hand delivered to the Respondent.

90. Respondent shall send copies of the transmittal of the payment to:

- (a) Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard (R-19J)
Chicago, Illinois 60604;
- (b) Duncan Campbell
U.S. Environmental Protection Agency, Region 5
Enforcement and Compliance Assurance Branch
Waste, Pesticides and Toxics Division
77 West Jackson Boulevard (DE-9J)
Chicago, Illinois 60604-5980; and
- (c) Christine McCulloch
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460.

91. Respondent shall be liable for stipulated penalties to the EPA, as specified below, for failure to comply with the requirements of this Consent Agreement, unless excused by EPA, in its sole discretion. Compliance by Respondent shall include the timely completion of the activities required and/or specified by this Consent Agreement or any other work plan, schedule, or other document approved by EPA pursuant to this Consent Agreement.

(a) For failure to comply with tasks specified in paragraphs 79-88 Respondent shall pay stipulated penalties in the following amounts for each day during which the violations continue:

<u>Period of Failure to Comply</u>	<u>Penalty Per Violation Per day</u>
1 st through 7 th day	\$100.00
8 th through 21 st day	\$250.00
22 nd through 30 th day	\$500.00
Greater than 30 days	\$1,000.00

These stipulated penalties apply separately and fully for each of Respondent's Facilities, and may become due for violations at more than one Facility on a day of violation. For purposes of calculating interest, administrative costs and late payment penalty, the stipulated penalties become "due" within 30 days of receipt by the Respondent of a written notice from EPA that payment of such stipulated penalties is due.

92. Respondent's failure to comply with any material and substantial provision of this Consent Agreement and Final Order may subject Respondent to a civil action pursuant to Section 3008(c) of RCRA, 42 U.S.C. §6928(c), to collect penalties for any

noncompliance with the Order (as well as injunctive relief). The amount of any stipulated penalties Respondent has paid for any violation may, at EPA's discretion, which will not be unreasonably withheld, be subtracted from any penalty amount sought by EPA for those violations of Section 3008(c) of RCRA, 42 U.S.C. §6928(c).

93. EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim, and Respondent agrees to pay these amounts assessed under this Consent Agreement. Interest, at the statutory judgement rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty agreed to herein and/or on any stipulated penalty imposed pursuant to this Consent Agreement on the date a copy of the Consent Agreement and Final Order are mailed or hand delivered to Respondent (in the case of civil penalties) or a copy of the notice for stipulated penalties is mailed or hand delivered to Respondent. However, EPA will not seek to recover interest on any portion of the civil penalty or any stipulated penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

- (a) Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. §13.11(a).
- (b) Monthly Administrative Handling Charge. Respondent must pay an administrative handling charge of \$15.00 on any overdue debt, with an additional charge of \$15.00 for each subsequent thirty (30) calendar day period over which an overdue balance remains.
- (c) Late-Payment Penalty. On any portion of a civil penalty or stipulated penalty more than ninety (90) calendar days delinquent, Respondent must

pay a late-payment penalty of six percent per annum, which will accrue from the date the penalty payment became delinquent. This late-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

94. Penalties paid pursuant to this Consent Agreement and Final Order are not deductible for federal purposes under 26 U.S.C. § 162(f).

D. Additional Terms

95. Nothing in this agreement prohibits, alters, or in any way limits EPA's ability to seek any other remedies or sanctions available by virtue of Respondent's violation of this Consent Agreement.

96. This Consent Agreement and Final Order represents a final settlement for only civil liability under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for: (a) specific claims for the violations alleged in Count 1 of the administrative complaint issued by Region 5 of the EPA; and (b) the allegations otherwise asserted in this Consent Agreement. Nothing in this Consent Agreement is intended to, nor shall be construed to, operate in any way to resolve any criminal liability of Respondent arising from the violations addressed in this Consent Agreement. Compliance with this Consent Agreement shall not be a defense to any actions subsequently commenced pursuant to Federal or State laws and regulations, and it is the responsibility of Respondent to comply with such laws and regulations.

97. Nothing in this Consent Agreement relieves Respondent from its obligation to comply with all applicable federal, state and local statutes and regulations, including the RCRA Subtitle C requirements at 40 C.F.R. Parts 260 through 268 and 279, and authorized State programs, at the Facilities. Nothing in this paragraph shall be construed to modify or vacate the provisions of this Consent Agreement providing for a compliance

schedule for Respondent to come into compliance with applicable provisions of 40 C.F.R. Part 265, Subparts J, BB and/or the applicable authorized state provisions.

98. If, in good faith, Respondent obtains a written variance, exemption, or waiver from an authorized state from any of the requirements set forth in this Consent Agreement and if Respondent complies with the terms of any such variance, exemption or waiver, Respondent shall not be liable for stipulated penalties which might accrue pursuant to paragraph 91 if EPA determines Respondent is out of compliance with the requirements of this Consent Agreement until EPA gives written notice to Respondent that Respondent is out of compliance with this Consent Agreement. Stipulated penalties in such an instance will accrue beginning thirty (30) days after EPA gives notice to Respondent that Respondent is out of compliance with this Consent Agreement.

99. If Respondent fails to comply with any provision contained in this Consent Agreement, Respondent waives any rights it may possess in law or equity to challenge the authority of EPA to bring a civil action in the appropriate United States District Court to compel compliance with the Consent Agreement or to seek an additional penalty for such noncompliance.

100. Each party agrees to bear its own costs and attorneys' fees in the action(s) resolved by this Consent Agreement and Final Order.

101. This Consent Agreement and Final Order shall be binding upon all Parties to this matter, and their successors and assigns. The undersigned representative of each Party to this Consent Agreement certifies that he or she is duly authorized by the Party whom he or she represents to enter into the terms and bind that Party to them.

102. Notwithstanding any other provision of this Consent Agreement, EPA expressly reserves any and all rights to bring an enforcement action pursuant to Section

7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority should EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at any of the Facilities may present an imminent and substantial endangerment to health or the environment. EPA also expressly reserves the right: (a) for any matters other than violations alleged in the Complaint, or resolved through this Consent Agreement, to take any action authorized under Section 3008 of RCRA, 42 U.S.C. § 6928; (b) to enforce compliance with the applicable provisions of any state authorized hazardous waste program; (c) to take any action under 40 C.F.R. Parts 124 and 270 and applicable analogous requirements of any state authorized hazardous waste program.

103. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum or communication is to persuade such an official to accept and issue this Consent Agreement and Final Order.

104. The contacts for the parties under this Consent Agreement and Final Order are as follows:

EPA OECA:

Christine McCulloch
Office of Enforcement and Compliance Assurance
U.S. EPA
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460.

EPA Region 2:

Gary Nurkin, Esq.
Office of Regional Counsel
U.S. EPA, Region 2
290 Broadway
New York, New York 10007-1866

EPA Region 3: Jeanna R. Henry
RCRA Compliance & Enforcement Branch
U.S. EPA, Region 3 (3WC31)
1650 Arch Street
Philadelphia, PA 19103-2029

EPA Region 4: Jewell Grubbs, Chief
RCRA Enforcement and Compliance Branch
Waste Management Division
U.S. EPA, Region 4
61 Forsyth Street
Atlanta, Georgia 30303

EPA Region 5: Duncan Campbell
Enforcement and Compliance Assurance Branch (DE-9J)
Waste, Pesticides and Toxics Division
U.S. EPA, Region 5
77 West Jackson Boulevard (DE-9J)
Chicago, Illinois 60604-3590

EPA Region 7: Stephen Pollard
Air, RCRA & Toxics Division
RCRA Enforcement and State Programs Branch
U.S. EPA, Region 7
901 N. 5th Street
Kansas City, Kansas 66101

Ford Motor Company: William M. Grier
Office of General Counsel
The Ford Motor Company
One Parklane Boulevard
Suite 1400 East
Dearborn, MI 48126

105. "Force majeure" for the purposes of this Consent Agreement, is defined as any event arising from causes beyond the control of the Respondent which delays or prevents, despite the best efforts of Respondent, the timely performance of any action

required under this Consent Agreement and Final Order. The requirement that the Respondent use "best efforts" includes using best efforts to anticipate any potential force majeure events. Events which do not constitute force majeure events include, but are not limited to, financial inability to perform any actions required by this Consent Agreement and unanticipated or increased costs or expenses associated with the implementation of this Consent Agreement.

Respondent will immediately notify EPA if there will be a delay in the performance of any of the tasks or obligations under this Consent Agreement and, if claiming that such an event is "force majeure" provide EPA with the following in writing: an explanation and description of the delay; all actions taken or to be taken to prevent or minimize the delay; Respondent's rationale for attributing such an event to force majeure; and if the event will contribute or cause endangerment to public health and the environment. EPA has the sole discretion to determine if the event is "force majeure." Nothing in the previous sentence shall adversely affect any right Respondent has under applicable law.

106. Respondent may request an extension of performance dates or other modification to this Consent Agreement for good cause. A request for the extension or modification must be addressed to EPA, Region 5, be in writing and include, but not be limited to: (a) if requesting an extension of any deadline specified in this Consent Agreement, the anticipated date by which Respondent will complete the task; (b) the reason for the requested modification; and (c) any documentation to support the "good cause" to grant such modification request. Any decision by EPA, Region 5, to allow an extension will be in its sole discretion and will not be unreasonably withheld. For

Facilities outside of Region 5, Region 5 will consult with the affected region before making a decision to grant a good cause extension. Any decision by EPA to allow an extension shall be in writing and signed by the parties to the Consent Agreement.

107. Respondent may request termination of the Consent Agreement thirty (30) calendar days after it has certified that it is in compliance with 40 C.F.R. Part 265, Subparts J and BB, and the requirements of this Consent Agreement. Respondent shall submit the written request for termination to the Chief, Enforcement and Compliance Assurance Branch, Waste Pesticides and Toxics Division, Region 5. Upon receipt of the written request and after reviewing all information, EPA will notify Respondent in writing regarding its decision with respect to the termination of the Consent Agreement. EPA may request further information and/or documentation before deciding that compliance has been demonstrated. This Consent Agreement shall terminate upon EPA's determination that Respondent has complied with the requirements of the Consent Agreement.

108. This Consent Agreement is effective upon the filing of the Final Order. 40 C.F.R. § 22.31(b).

V. Signatories

Each undersigned representative of a party to this Consent Agreement certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to legally bind such party to this document.

In the Matter of: FORD MOTOR COMPANY

Docket Nos. RCRA-02-2003-7104

RCRA-03-2003-0062

RCRA-04 -2003-4001(b)

RCRA-5-99-010

RCRA-05-2003-0003

RCRA-07-2003-0050

Respondent: The Ford Motor Company

Agreed to this 5th day of February, 2003

By: 

Name: Kathryn S. Lamping
Assistant Secretary

Title:

The Ford Motor Company

In the Matter of: FORD MOTOR COMPANY
Docket No. RCRA-07-2003-0050

Complainant: Region 7

Agree to this 27 day of Feb 2003.

By: William A. Spratlin
William A. Spratlin, Director
Air, RCRA and Toxics Division
U.S. Environmental Protection Agency
Region 7

By: Leslie Humphrey
Leslie Humphrey
Associate Regional Counsel
U.S. Environmental Protection Agency
Region 7

Attachment A

Georgia

Pursuant to Section 3006(b) of RCRA, 42 U.S.C. §6926(b), on August 21, 1984, the State of Georgia received final authorization to carry out certain portions of RCRA, including those recited herein, in lieu of the federal program. The State of Georgia Environmental Protection Division is charged with the statutory duty of enforcing the laws of the State of Georgia relating to hazardous waste management under the Georgia Hazardous Waste Management Act (GHWMA). For the purpose of this Order, a citation herein to the requirements of RCRA and 40 C.F.R. Parts 124, 260-270 shall constitute a citation to the equivalent requirements of GHWMA and Section 391-3-11 of the Georgia Hazardous Waste Management Rules (GHWMR).

Illinois

Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the state of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective January 31, 1986 (51 Fed. Reg. 3778 (Jan. 30, 1986)). The administrator of the U.S. EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective March 5, 1988 (53 Fed. Reg. 126)(Jan. 5, 1998); April 30, 1990 (55 Fed. Reg. 7320)(Mar.1, 1990); June 3, 1991 (56 Fed. Reg.13595)(Apr. 3, 1991); October 4, 1996 (61 Fed. Reg. 40520)(Aug. 5, 1996).

Kentucky

Pursuant to Section 3006(b) of RCRA, 42 U.S.C. §6926(b), on January 31, 1985, the Commonwealth of Kentucky received final authorization to carry out certain portions of RCRA, including those recited herein, in lieu of the federal program. The Commonwealth of Kentucky Department for Environmental Protection is charged with the statutory duty of enforcing the laws of the Commonwealth of Kentucky relating to hazardous waste management under the Kentucky Hazardous Waste Management Act (KHWMA). For the purpose of this Order, a citation herein to the requirements of RCRA and 40 C.F.R. Parts 124, 260-270 shall constitute a citation to the equivalent requirements of KHWMA and Title 401 Kentucky Administrative Regulations (KAR) Chapters 30 - 40.

Michigan

Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Michigan final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective October 30, 1986 (51 Fed. Reg. 36804-36805(Oct. 16, 1986)). The administrator of the U.S. EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective January 31, 1986 (51 Fed. Reg. 36804 (Oct. 16, 1986)); January 23, 1990 (54 Fed. Reg. 48608 (Nov. 24, 1989)); and June 24, 1991 (56 Fed. Reg. 18517 (Apr. 23, 1991)).

Minnesota

Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Minnesota final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective on February 11, 1985 (50 Fed. Reg. 3756 (January 28, 1985)). The Administrator of U.S. EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective September 18, 1987 (52 Fed. Reg. 27199 (July 20, 1987)); June 23, 1989 (54 Fed. Reg. 16361 (April 24, 1989)) (corrected effective June 23, 1989, 54 Fed. Reg. 27169 (June 28, 1989)); August 14, 1990 (55 Fed. Reg. 24232 (June 15, 1990)); August 23, 1991 (56 Fed. Reg. 28709 (June 24, 1991)); May 18, 1992 (57 Fed. Reg. 9501 (March 19, 1992)); May 17, 1993 (58 Fed. Reg. 14321 (March 17, 1993)); and March 21, 1994 (59 Fed. Reg. 2998 (January 20, 1994)).

Missouri

Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the state of Missouri final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective December 12, 1985 (50 Fed. Reg. 47740 (Nov. 20, 1985)). The administrator of the U.S. EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective April 28, 1989 (54 Fed. Reg. 8190 (Feb. 27, 1989)); March 12, 1993 (58 Fed. Reg. 3497 (Jan. 11, 1993)); December 30, 1997 (62 Fed. Reg. 29301 (May 30, 1997)); July 6, 1999 (64 Fed. Reg. 23780 (May 4, 1999)); April 28, 2000 (65 Fed. Reg. 10405 (Feb. 28, 2000)); October 1, 2001 (66FR 49841) effective November 30, 2001.

New Jersey

Pursuant to Section 3006(b) of RCRA, 42 U.S.C. Section 6926(b), the Administrator of the U.S. EPA granted the State of New Jersey final authorization to administer a state hazardous waste program in lieu of federal regulations. On October 21, 1996, the State of New Jersey adopted a new hazardous waste regulatory program (N.J.A.C. 7:26G-1.1 *et seq.*, 28 N.J. Register 4606) by incorporating by reference 40 C.F.R. Parts 124, 260 - 266, 268, and 270, as set forth in the 1993 C.F.R. On August 2, 1999, EPA authorized New Jersey's new hazardous waste regulatory program (the "State Program") with certain limited exceptions (64 Federal Register 41823). On January 19, 1999, the State of New Jersey revised its hazardous waste regulatory program (N.J.A.C. 7:26G-1.1 *et seq.*, 31 N.J. Reg. 166) by incorporating by reference 40 CFR Parts 124, 260 - 266, 268, and 270 as of July 31, 1998. On December 16, 2002, EPA authorized New Jersey's revisions to its hazardous waste regulatory program effective February 14, 2003, with the limited exceptions (67 Federal Register 76995).

Ohio

Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the state of Ohio final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective June 30, 1989 (54 Fed. Reg. 27170 (Jun. 28, 1989)). The administrator of the U.S. EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective June 7, 1991 (56 Fed. Reg. 14203 (Apr. 8, 1991)); and August 19, 1991 (56 Fed. Reg. 28088 (Jun. 19, 1991)).

Virginia

Pursuant to Section 3006(b) of RCRA, 42 U.S.C. Section 6926(b), the Administrator of the U.S. EPA granted the Commonwealth of Virginia final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective December 18, 1984 (49 Fed. Reg. 47391 (December 4, 1984)). The Administrator of the U.S. EPA granted final authorization to Virginia to administer additional RCRA and certain HSWA requirements effective September 29, 2000 (65 Fed. Reg. 6606 (July 31, 2000)).

In the Matter of: Ford Motor Company

Docket No. RCRA-07-2003-0050

03 FEB 28 AM 11:42

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order, as it pertains to those facilities located in Region 7 of the U.S. Environmental Protection Agency (Kansas City Assembly Plant, Kansas City, Missouri and St. Louis Assembly Plant, St. Louis, Missouri), in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and Revocation/Termination or Suspense of Permits, 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)). The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31 [64 Fed. Reg.. 40138 (July 23, 1999)].

Dated: February 27, 2003

By: Robert J. Patrick
Robert J. Patrick
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 7

IN THE MATTER OF Ford Motor Company,
Docket No. RCRA-07-2003-0050

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order were sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Leslie Humphrey
Associate Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Stephen Pollard
Air, RCRA & Toxics Division
RCRA Enforcement and State Programs Branch
United States Environmental Protection Agency

Copy by Certified Mail,
Return Receipt Requested, to:

Christine McCulloch
Office of Enforcement and Compliance Assurance
U.S. EPA
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

Jeanna R. Henry
RCRA Compliance & Enforcement Branch
U.S. EPA, Region 3 (3WC31)
1650 Arch Street
Philadelphia, PA 19103-2029

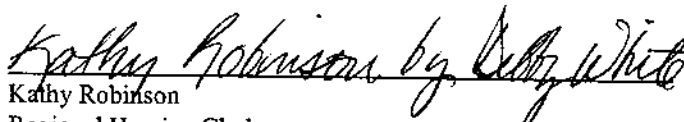
Duncan Campbell
Enforcement and Compliance Assurance Branch
Waste, Pesticides and Toxics Division
U.S. EPA, Region 5
77 West Jackson Boulevard (DE-9J)
Chicago, IL 60604-3590

Gary Nurkin
Office of Regional Counsel
U.S. EPA, Region 2
290 Broadway
New York, New York 10007-1866

Jewell Grubbs, Chief
RCRA Enforcement and Compliance
Assurance Branch
U.S. EPA, Region 4
61 Forsyth Street
Atlanta, GA 30303

William M. Grier
Office of General Counsel
The Ford Motor Company
One Parklane Boulevard
Suite 1400 East
Dearborn, MI 48126

Dated: March 3, 2003


Kathy Robinson
Regional Hearing Clerk